

AMENDED IN SENATE APRIL 4, 2016

SENATE BILL

No. 1177

Introduced by Senator Galgiani

February 18, 2016

An act to add Article 14 (commencing with Section 2340) to Chapter 5 of Division 2 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1177, as amended, Galgiani. Physician and Surgeon Health and Wellness Program.

Existing law establishes in the Department of Consumer Affairs the Substance Abuse Coordination Committee, comprised of the executive officers of the department's healing arts boards and a designee of the State Department of Health Care Services. Existing law requires the committee to formulate, by January 1, 2010, uniform and specific standards in specified areas that each healing arts board is required to use in dealing with substance-abusing licensees, whether or not a healing arts board has a formal diversion program. Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California within the department.

This bill would authorize the board to establish a Physician and Surgeon Health and Wellness Program for the early identification and appropriate interventions to support a physician and surgeon in his or her rehabilitation from substance abuse, physical or mental ~~illness~~, *health*, burnout, or other similar conditions, as specified. *If the board establishes a program, the bill would require the board to contract for the program's administration with an independent administering entity meeting certain requirements. The bill would require program*

participants to enter into a contractual agreement agreeing to cooperate with all elements of the program designed for the individual participant for successful completion of any treatment or monitoring recommendations.

This bill would declare the intent of the Legislature to enact legislation that would authorize an administrative fee to be established by the board to be charged to the individual licensee for participation in the program and require all costs of treatment to be paid by the participant.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 14 (commencing with Section 2340) is
2 added to Chapter 5 of Division 2 of the Business and Professions
3 Code, to read:

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5 Article 14. Physician and Surgeon Health and Wellness Program

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7 2340. (a) The board may establish a Physician and Surgeon
8 Health and Wellness Program for the early identification and
9 appropriate interventions to support a physician and surgeon in
10 his or her rehabilitation from substance abuse, physical or mental
11 illness, health, burnout, or other similar conditions to ensure that
12 the physician and surgeon remains able to practice medicine in a
13 manner that will not endanger the public health and safety and will
14 maintain the integrity of the medical profession. The program, if
15 established, shall aid a physician and surgeon with those health
16 issues impacting his or her ability to practice medicine.

17 (b) For the purposes of this article, "program" shall mean the
18 Physician and Surgeon Health and Wellness Program.

19 (c) If the board establishes a program, the program shall meet
20 the requirements of this article.

21 2340.2. (a) If the board establishes a program, the board shall
22 contract for the program's administration with an independent
23 administering entity that shall do all of the following:

24 (1) Provide for the education of physicians and surgeons with
25 respect to the recognition and prevention of physical, emotional,
26 and psychological problems and provide for intervention when

1 *necessary or under circumstances that may be established through*
2 *regulations adopted by the board.*

3 *(2) Offer assistance to a physician and surgeon in identifying*
4 *physical, emotional, or psychological problems.*

5 *(3) Evaluate the extent of physical, emotional, or psychological*
6 *problems and refer the physician and surgeon to the appropriate*
7 *treatment.*

8 *(4) Pursuant to regulations adopted by the board addressing*
9 *protocols to report compliance back to the referring entity*
10 *described in paragraph (6), monitor the compliance of a physician*
11 *and surgeon who has been referred for treatment.*

12 *(5) Provide counseling and support for the physician and*
13 *surgeon and for the family of any physician and surgeon referred*
14 *for treatment.*

15 *(6) Agree to receive referrals from the board and other health*
16 *care entities, including, but not limited to, hospital medical staffs,*
17 *well-being committees, and medical corporations.*

18 *(7) Agree to make their services available to all licensed*
19 *California physicians and surgeons.*

20 *(b) For the purposes of the program, an administering entity*
21 *shall mean a private entity contracted to perform the duties*
22 *described in, and meet the requirements of, this article. A request*
23 *for proposals shall be solicited by the board in the selection of the*
24 *administering entity.*

25 *2340.4. The administering entity of the program shall:*

26 *(a) Have expertise and experience in the areas of substance or*
27 *alcohol abuse, and mental disorders in healing arts professionals.*

28 *(b) Evaluate the program's progress, prepare reports and*
29 *provide an annual accounting to the board on nonconfidential,*
30 *statistical information as determined by the board.*

31 *(c) Identify and use a statewide treatment resource network,*
32 *which includes treatment and screening programs and support*
33 *groups.*

34 *(d) Demonstrate a process for evaluating the effectiveness of*
35 *such programs.*

36 *(e) Be subject to an independent audit.*

37 *2340.6. (a) All participants of the program shall enter into a*
38 *contractual agreement agreeing to cooperate with all elements of*
39 *the program designed for the individual participant for successful*

1 completion of any treatment or monitoring recommendations as
2 determined by the administering entity.

3 (b) If a participant referred to the program is terminated from
4 the program for any reason other than the successful completion
5 of the program, the administering entity shall inform the referring
6 entity of the participant's termination. If the program determines
7 that the continued practice of medicine by that individual creates
8 too great a risk to public health, safety, and welfare, that fact shall
9 be reported to the referring entity and all documents and
10 information pertaining to and supporting that conclusion shall be
11 provided to the referring entity.

12 (c) Unless required under subdivision (b), all program records
13 and documents and records and documents of participation of a
14 physician and surgeon in the program shall be confidential and
15 are not subject to discovery or subpoena.

16 (d) Participation in the program shall not be a defense to any
17 disciplinary action that may be taken by the board. This section
18 does not preclude the board from commencing disciplinary action
19 against a physician and surgeon who is terminated unsuccessfully
20 from the program. However, that disciplinary action may not
21 include as evidence any confidential information, including
22 documents and records described in subdivision (c).

23 2340.8. No program employee, contractor, or agent thereof,
24 shall be liable for any civil or criminal damages because of acts
25 or omissions that may occur while acting in good faith in a
26 program established pursuant to this article.

27 2340.10. (a) It is the intent of the Legislature to enact
28 legislation that would authorize an administrative fee to be
29 established by the board to be charged to the individual licensee
30 for participation in the program and to require all costs of
31 treatment to be paid by the participant.

32 (b) It is the intent of the Legislature to enact legislation that
33 would provide that nothing in this section shall be construed to
34 prohibit additional funding from private contributions from being
35 used to support the operations of the program.

36 2340.12. The Administrative Procedure Act (Chapter 3.5
37 (commencing with Section 11340) of Part 1 of Division 3 of Title

1 2 of the Government Code) shall apply to regulations adopted
2 pursuant to this article.

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